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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CAPELLA PHOTONICS, INC.

Plaintiff,

v.

CISCO SYSTEMS, INC.

Defendant.

CASE NO. 3:14-CV-03348-EMC

**DEFENDANT CIENA CORPORATION'S
UNOPPOSED ADMINISTRATIVE MOTION
TO CONSIDER WHETHER CASES
SHOULD BE RELATED**

Defendant Ciena Corporation (“Ciena”) hereby requests that the Court determine, under Civil Local Rule 3-12, that the recently transferred case, *Capella Photonics, Inc. v. Ciena Corporation*, Case No. 3:20-cv-08628-JSW (“2020 Capella-Ciena Action”), is related to the following cases:

- *Capella Photonics, Inc. v. Cisco Systems, Inc.*, Case No. 3:14-cv-03348-EMC (“2014 Action”);
- *Cisco Systems, Inc. v. Capella Photonics, Inc.*, Case No. 3:20-cv-01858-EMC (“2020 Cisco-Capella Action”); and
- *Finisar Corp. v. Capella Photonics, Inc.*, Case No. 3:20-cv-07629 (“Finisar-Capella Action”).

Plaintiff Capella Photonics, Inc. (“Capella”) does not oppose this Motion.

Civil Local Rule 3-12 states that “[a]n action is related to another when: (1) The actions concern substantially the same parties, property, transaction, or event; and (2) It appears likely that there will be an unduly burdensome duplication of labor and expense or conflicts results if the cases are conducted before different Judges.” Civil L.R. 3-12(a). First, Capella is a party in all four listed actions, and the 2014 Action included both parties to the 2020 Capella-Ciena Action. Additionally, all cases listed above involve “substantially the same ... property” because all involve patents. *Id.* Second, the same patents are in suit in the 2020 Cisco-Capella Action and the 2020 Capella-Ciena Action – United States Patents Numbers RE47,905 and RE47,906. These two patents are reissues of the patents asserted in the 2014 Action and share a common specification and overlapping claim language with those patents. Third, the technology at issue and the products accused of infringement in all four actions are similar.

Given the foregoing, there will be common issues among the actions. *See Par Pharm., Inc. v. Takeda Pharm. Co.*, Civ. No. 13-CV-01927-LHK, 2013 U.S. Dist. LEXIS 202587, at *11-12 (N.D. Cal. Oct. 23, 2013) (“[T]he Court finds that the first prong of Civil Local Rule 3-12(a) is satisfied because *Mylan 4001* and the ’158 Actions all concern identical patents, 8,173,158 and 8,461,187; share Takeda as a party; and regard the same ‘transaction or event,’ an ANDA application to produce a generic version of Dexilant.”); *Capella Photonics, Inc. v. Cisco Sys., Inc.*,

Case No. 3:14-cv-03348-EMC, Doc. 242 (granting a motion to relate the 2020 Cisco-Capella Action to the 2014 Action); *Cisco Systems, Inc. v. Capella Photonics, Inc.*, Case No. 3:20-cv-01858-EMC, Doc. 78 (granting a motion to relate the Finisar-Capella Action to the 2020 Cisco-Capella Action). Judicial economy and efficiency would be achieved by having a single judge hear and decide all disputes involving the overlapping parties, intellectual property, and issues. *Id.* at *12. In fact, three of the above-listed cases have already been related. *Capella Photonics, Inc. v. Cisco Sys., Inc.*, Case No. 3:14-cv-03348-EMC, Doc. 242; *Cisco Systems, Inc. v. Capella Photonics, Inc.*, Case No. 3:20-cv-01858-EMC, Doc. 78. For the foregoing reasons, pursuant to Civil Local Rules 3-12 and 7-11, Ciena respectfully submits that these actions be related. A proposed order and declaration pursuant to Civil Local Rule 7-11 are attached as Exhibits 1 and 2.

Dated: January 19, 2021

Respectfully submitted,

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